

AMENDED IN ASSEMBLY APRIL 2, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 569

Introduced by Assembly Member Emmerson

February 25, 2009

An act to amend Section 512 of, and to add Section 512.7 to, the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 569, as amended, Emmerson. Meal periods: ~~transportation industry exemptions.~~

Existing law prohibits, *subject to certain exceptions*, an employer from requiring an employee to work ~~during any more than 5 hours per day without providing a meal or rest period mandated by an order of the Industrial Welfare Commission and establishes penalties for an employer's failure to provide a mandated meal or rest period.~~

This bill would *exempt from this prohibition construction employees who are covered by a valid collective bargaining agreement containing specified terms, and would instead apply the meal period provisions of that agreement to their employment. The bill would also permit parties in the transportation industry, under a valid collective bargaining agreement, to establish an off-duty meal period that commences after not more than 6 hours of work and the circumstances for on-duty meals by commercial drivers, if the collective bargaining agreement also provides for a premium rate for overtime hours and a specified regular hourly rate.*

~~The bill rate and would provide specify that it does its provisions pertaining to the transportation industry do not affect the requirements~~

for meal periods for employees other than commercial drivers in ~~the transportation~~ *that* industry subject to a collective bargaining agreement.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 *SECTION 1. Section 512 of the Labor Code is amended to*
2 *read:*

3 512. (a) An employer may not employ an employee for a work
4 period of more than five hours per day without providing the
5 employee with a meal period of not less than 30 minutes, except
6 that if the total work period per day of the employee is no more
7 than six hours, the meal period may be waived by mutual consent
8 of both the employer and employee. An employer may not employ
9 an employee for a work period of more than 10 hours per day
10 without providing the employee with a second meal period of not
11 less than 30 minutes, except that if the total hours worked is no
12 more than 12 hours, the second meal period may be waived by
13 mutual consent of the employer and the employee only if the first
14 meal period was not waived.

15 (b) Notwithstanding subdivision (a), the Industrial Welfare
16 Commission may adopt a working condition order permitting a
17 meal period to commence after six hours of work if the commission
18 determines that the order is consistent with the health and welfare
19 of the affected employees.

20 (c) Subdivision (a) does not apply to an employee in the
21 wholesale baking industry who is subject to an Industrial Welfare
22 Commission wage order and who is covered by a valid collective
23 bargaining agreement that provides for a 35-hour workweek
24 consisting of ~~five-seven-hour~~ 7-hour days, payment of ~~1~~ and $\frac{1}{2}$
25 *one and one-half times* the regular rate of pay for time worked in
26 excess of seven hours per day, and a rest period of not less than
27 10 minutes every two hours.

28 (d) If an employee in the motion picture industry or the
29 broadcasting industry, as those industries are defined in Industrial
30 Welfare Commission Wage ~~Orders~~ *Order Numbers* 11 and 12, is
31 covered by a valid collective bargaining agreement that provides
32 for meal periods and includes a monetary remedy if the employee
33 does not receive a meal period required by the agreement, then the

terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Orders Order Numbers 11 and 12.

(e) If an employee in a construction occupation, as defined in Industrial Welfare Commission Wage Order Number 16, is covered by a valid collective bargaining agreement that regulates off-duty and on-duty meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage Order Number 16.

~~SECTION 4.~~

SEC. 2. Section 512.7 is added to the Labor Code, to read:

512.7. (a) In the transportation industry, the parties to a valid collective bargaining agreement covering commercial drivers may establish, by the express terms of that agreement, the following:

(1) An off-duty meal period that commences after not more than six hours of work.

(2) The circumstances under which commercial drivers may qualify for an on-duty meal period.

(b) Except as to terms that the parties establish pursuant to subdivision (a), employers in the transportation industry shall provide off-duty and on-duty meal periods in accordance with Section 512 and the applicable provisions of Wage Order Number 9 of the Industrial Welfare Commission.

(c) This section applies only if the collective bargaining agreement covering commercial drivers provides for premium wage rates for all overtime hours worked and a regular hourly rate of pay for commercial drivers that is at least 30 percent higher than the state minimum wage.

~~SEC. 2.~~

SEC. 3. Notwithstanding any other provision of law, Section 512.7 of the Labor Code does not affect the nature or scope of the law related to meal periods, including the timing of commencement

- 1 of a meal period, for employees or employers not specifically
- 2 covered by Section 512.7.

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